

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

V.

CASE NO. 5:20-CR-50016

JUAN GARCIA-MALDONADO

DEFENDANT

ORDER

Now pending before the Court is the Report and Recommendation (Doc. 60) of United States Magistrate Judge Christy Comstock, filed on August 11, 2021. The time to object has now passed, and no objections were filed. The magistrate judge recommends granting the Defendant's Motion for Relief pursuant to 28 U.S.C. § 2255 (Doc. 56) for the sole purpose of allowing him to take an appeal of the Court's judgment. The Court agrees that if Defendant's counsel left him with the erroneous impression that there was nothing about his sentence that he could appeal, the appropriate remedy would be to vacate the original judgment and file an amended judgment that restarts the appeal clock. See *Estes v. United States*, 883 F.2d 645, 649 (8th Cir. 1989).

Accordingly, **IT IS ORDERED** that the Report and Recommendation (Doc. 56) is **ADOPTED IN ITS ENTIRETY** and that the Defendant's Motion for Relief pursuant to 28 U.S.C. § 2255 (Doc. 56) is **GRANTED**.

IT IS FURTHER ORDERED that the United States Probation Office prepare an amended judgment.

IT IS FURTHER ORDERED that Assistant Federal Public Defender Joe Alfaro is **APPOINTED** to assist the Defendant in filing his appeal.

IT IS SO ORDERED on this 3rd day of September, 2021.

/s/ Timothy L. Brooks
TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE